

CHAPTER VI.

THE PROCEDURE FOR CONSTITUTING - PERMANENT FOREST ESTATES (RESERVED FORESTS).

SECTION I.—PRELIMINARY STEPS.

§ 1.—The first Notification.

The procedure prescribed by the Acts is a perfectly natural one. First (section 4; Burma, section 6), a preliminary declaration is made, of which the object is to intimate to the public and to persons interested, the intention of Government to proceed to the constitution of certain tracts as reserved forests. This declaration, of course, must specify the limits of the proposed forest, or otherwise no one can tell whether he will be affected by it or not. It is not necessary (but it is of course allowable) to have recourse to artificial marks, posts or pillars, to indicate, in the first instance, the *proposed* limits of the forest generally; it is enough to specify the limits by such general indications as practically meet the object in view. It is not wise to go to any expense in putting up marks at this stage; because it is obvious that they may be more or less altered during the process of settlement. The *permanent demarcation*, which is so necessary a part of the work of establishing forest estates, is the last stage of all, when everything is settled.

The notification also takes the opportunity of appointing an officer, called the "Forest Settlement Officer," who will be the proper authority to whom claims and objections have to be addressed.

Such an officer is usually not a forest officer, so that he may be perfectly unbiased by any professional interests. It will be observed that this does not, in any way, prevent the practice, which is both usual and necessary, of deputing a forest officer also, to represent the interests of Government, though that officer cannot

decide any case or issue any order. In most cases, indeed, the forest officer first examines the country, looks to the necessities of the case, and satisfies himself, as far as possible, that the constitution of a forest estate is possible; he then submits a report, with sketch maps, explaining the objects in view, and establishing the desirability of constituting a permanent forest in the locality. Government then considers this, and if it approves of the plan, it directs a settlement, and issues the necessary preliminary notification. Cases may, however, arise in which, owing to great uncertainty as to what is waste land, and what is included in villages, it may be necessary to appoint a civil officer (usually of the Revenue Settlement Department, as such a task can only be accomplished in connection with a Land Revenue Settlement under the Revenue Act) from the very first. He will have to ascertain what lands it may be *possible* to propose. This officer will naturally seek the advice of a forest officer, and the result of their preparatory work will be to make it possible to issue the preliminary notification, after which the officer in question will probably be formally constituted the Forest Settlement Officer.

*§ 2.—*Ad interim* prohibition to fresh clearances, &c.*

When once this notification of proposals is out, it is obviously desirable to prevent fresh complications arising in the area by people continuing to occupy new land or to acquire rights. Section 5 (B. 8), therefore, prescribes that no one shall make fresh clearances for cultivation, or otherwise appropriate or occupy land, nor can any process of prescription for the acquirement of rights go on¹.

A person may be within a year or two of completing his twenty years' exercise of some practice which would then become a right; but the issue of the notification would be a bar to his completing the acquisition. Only such rights *as exist* are saved, and such as Government expressly desire to grant. A person who has a right

¹ The Indian Act has provided in section 25 a special penalty for cultivation clearance, or other act violating this section 5. The Burma Act is similar.

already, may of course transfer it to another person, supposing it is the nature of the right to be transferable.

This provision is very necessary, since, if people were to go on developing new rights, and appropriating new clearings, the settlement would never come to an end. As fast as the first set of claims had been dealt with another would appear.

It is also absolutely necessary to draw the line and fix a *date* at which it may be ascertained that the existing conditions of rights were such and such; then it is easy to protect the estate in future from being burdened afresh with rights.

§ 3.—*The Proclamation.*

The next step is to explain to the neighbours what will be the consequence of making the land into a forest estate, and invite them to put forward all claims and objections within a certain reasonable time fixed at three months (section 6, B. 7).

The preliminary notification having been issued, and the Forest Settlement Officer being in readiness, the "Settlement of Rights" is the next important stage. All who desire to claim any plot of land as their own inside the proposed forest, or to make known any right of user or other interest which may be adverse to the Government title, have now the opportunity of getting their rights fully established.

The settlement, in fact, is a simple and speedy procedure whereby the rights of the State may be separated from those of individuals, and thus disputes may be set at rest, and injustice and hardship resulting from the assertion of the State's rights in the forest, be prevented or redressed. Claims may be presented verbally, and they are taken down by the Settlement Officer in writing.

Written claims are put on the file for hearing. But the investigation goes a step further still. The forest may be inhabited by ignorant tribes; the right-holders may be peasantry who do not thoroughly understand the object of the notice they have received, nor the necessity for making a regular claim or the method of making it; permission is therefore given for the Settlement Officer